

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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ELIZABETH COBLE,  
MILAGROS HARPER, and  
DENNIS HARPER,  
on behalf of themselves and  
all others similarly situated,

Plaintiffs,

v.

COHEN & SLAMOWITZ, LLP,  
DAVID COHEN, ESQ.,  
MITCHELL SLAMOWITZ, ESQ.,  
LEANDRE JOHN, ESQ., and  
CRYSTAL S.A. SCOTT, ESQ.,

Defendants.

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**11-cv-1037 (ER)(GAY)**

**DECLARATION OF PETER T. LANE, ESQ.  
IN FURTHER SUPPORT OF PLAINTIFFS'  
MOTION TO AMEND THE COMPLAINT**

**HON. EDGARDO RAMOS  
HON. GEORGE A. YANTHIS**

PETER T. LANE, an attorney duly licensed to practice law in the State of New York, does hereby affirm under the penalty of perjury:

1. I am an associate attorney at Schlanger & Schlanger, LLP, co-counsel for Plaintiffs and, as such, am familiar with the facts and documents relevant to this dispute.
2. I make this Declaration in further support of Plaintiffs' Motion To Amend The Complaint.
3. Specifically, I submit this Declaration to place before the court attached Exhibit A, relevant pages from the Transcript of Defendant Leandre John's Deposition on December 14, 2012, referred to in Plaintiffs' Reply Memorandum of Law.
4. For the reasons set forth more fully in Plaintiffs' Reply Memorandum of Law, Plaintiffs' Motion to Amend the Complaint should be granted in its entirety.

Dated:           New York, New York  
                  March 1, 2013

Respectfully Submitted,

/s/ Peter T. Lane  
Peter T. Lane, Esq.  
Schlanger & Schlanger, LLP  
9 East 40<sup>th</sup> Street, Suite 1300  
New York, NY 10016  
Ph: 914-946-1981  
Peter.lane@schlangerlegal.com

# **EXHIBIT A**

2                   UNITED STATES DISTRICT COURT  
3                   SOUTHERN DISTRICT OF NEW YORK  
4                   -----x

5                   ELIZABETH COBLE, MILAGROS HARPER  
6                   and DENNIS HARPER, on behalf of  
7                   themselves and all others similarly  
8                   situated.

9                   Plaintiffs,

10                  v.

11                  11-CV-01037 (JFM)

12                  COHEN & SLAMOWITZ, LLP,  
13                  DAVID COHEN, ESQ.,  
14                  MITCHELL SLAMOWITZ, ESQ.  
15                  LEANDRE JOHN, ESQ.,  
16                  CRYSTAL S.A. SCOTT, ESQ.

17                  Defendants.

18                  -----x  
19                  December 14, 2012  
20                  9:30 a.m.

21                  Deposition of LEANDRE JOHN, taken by  
22                  plaintiffs, pursuant to Rule 30(b)(6), at the  
23                  offices of Schlanger & Schlanger, 9 East 40th  
24                  Street, New York, NY 10016, before Joseph B.  
25                  Pirozzi, a Registered Professional Reporter  
                      and Notary Public of the State of New York.

2                   for purchase of index numbers?

3                   A.       These are for index numbers.

4                   Q.       How do you know that?

5                   A.       I can see there is a 45 dollar fee  
6                   is associated with the files.

7                   Q.       Is that the cost of an index  
8                   number in 2005 to the best of your  
9                   recollection?

10                  A.       Yes.

11                  Q.       And so this is a different kind of  
12                  check request than the one we were just  
13                  looking at as Exhibit 4, right?

14                  A.       Correct.

15                  Q.       And each of these represents an  
16                  incident of service by Midlantic, is that  
17                  correct, other than the pages which are  
18                  copies of the actual checks, correct?

19                  A.       Yes.

20                  Q.       So let's look at the first page,  
21                  if you would. It's Bates stamped C&S 1504.  
22                  The first column is Court and that would be  
23                  the court in which the index numbers are  
24                  printed, right?

25                  A.       Correct.

2 Q. And the file number is file number  
3 the number at Cohen & Slamowitz. The next  
4 column is case and it's the case that the  
5 file number is purchased, correct?

6 A. Yes.

7 Q. What's been redacted here are the  
8 defendant's name?

9 A. Yes.

10 Q. Next column date of service, the  
11 that's the date of service in which the  
12 process service was purchased, right?

13 A. Correct.

14 Q. The next number says I N D what  
15 does that mean?

16 A. Individual.

17 Q. Are these next four columns had --

18 A. Types of service.

19 Q. What does individual mean in that  
20 context?

21 A. Individual would be akin to  
22 personal service on the named defendant.

23 Q. And the next column says S UBS, do  
24 you know what that means?

25 A. That means substitute service

2 meaning substitute list has been completed.

3 Q. What does that means?

4 A. Substitute service means of  
5 serving for another individual.

6 Q. Next column says N/ML. What does  
7 that stand for?

8 A. Nail and mail. Yes.

9 Q. And that we addressed already?

10 A. Yes.

11 Q. And in this process the notice is  
12 affixed to the door and mailed to the  
13 defendant, right?

14 A. Correct.

15 Q. A prerequisite to that form of  
16 service is that there has to be three  
17 attempts to serve by other means of presence?

18 A. Due diligence, yes.

19 Q. Yes, meaning three attempts,  
20 right?

21 A. Yes.

22 Q. The next column says CORP, what  
23 does that stand for, corporate?

24 A. Correct.

25 Q. What does that mean?

2           A. I believe that's service on a  
3 corporation.

4           Q. If you go through this document it  
5 looks like the vast majority of service was  
6 made by nail and mail, is that fair to say?

7           A. That's fair to say.

8           Q. Is that consistent with your  
9 understanding that the vast majority of  
10 service was service process was?

11          A. Yes.

12          Q. That's more by nail and mail?

13          A. Correct.

14          Q. Has that been true since 2002?

15          A. As far as I can recall, yes.

16          Q. Do you have any sense of the  
17 percentage of service that is accomplished in  
18 collection actions by nail and mail?

19          A. I would say over 80 percent.

20          Q. And there are a number of pages  
21 that are disbursed through this document that  
22 look to be check stubs, correct?

23          A. Yes.

24          Q. And those are consistent with the  
25 way checks are delivered by Cohen & Slamowitz

2 to entities like Midlantic, right, that  
3 there's a stub with a check attached to it,  
4 correct?

5 A. Yes.

6 Q. Presumably these are the stubs  
7 separated from the checks, correct?

8 A. Yes.

9 Q. And it's one piece of proof that  
10 the check without to pay for these invoices,  
11 correct?

12 A. Correct.

13 (E-mail dated May 10, 2005 marked  
14 Exhibit 6 for identification)

15 Q. I have placed before you a  
16 document labeled Exhibit 6. The Bates label  
17 on it starts with C&S 618 and runs through  
18 C&S 625. Do you see that?

19 A. Yes.

20 Q. Is it fair to say that these are  
21 copies of e-mails generated at Cohen &  
22 Slamowitz?

23 A. Yes.

24 Q. Would this be the result of a  
25 search for Midlantic in Cohen & Slamowitz's